

1 SPENCER HOSIE (CA Bar No. 101777)
shosie@hosielaw.com
2 BRUCE WECKER (CA Bar No. 078530)
bwecker@hosielaw.com
3 GEORGE F. BISHOP (CA Bar No. 89205)
gbishop@hosielaw.com
4 HOSIE RICE LLP
188 The Embarcadero, Suite 750
5 San Francisco, CA 94105
6 (415) 247-6000 Tel.
(415) 247-6001 Fax

7
8 *Attorneys for Plaintiff*
IMPLICIT NETWORKS, INC.

10 UNITED STATES DISTRICT COURT
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13 IMPLICIT NETWORKS, INC.,

14 Plaintiff,

15 v.

16 MICROSOFT CORPORATION,

17 Defendants.
18
19
20
21
22
23
24
25
26
27
28

FILED

NOV 30 2009

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

14
15 E-filing

SBA

CV 09

5633

Case No. _____

**ORIGINAL COMPLAINT AND
DEMAND FOR JURY TRIAL**

1 Plaintiff Implicit Networks, Inc. ("Implicit" or "Plaintiff") hereby files its complaint
2 against defendants Microsoft Corporation ("Microsoft") and ("Defendant"), for patent
3 infringement. For its complaint, Plaintiff alleges, on personal knowledge as to its own acts
4 and on information and belief as to all other matters, as follows:

5 **PARTIES**

6 1. Implicit is a corporation organized under the laws of the State of
7 Washington, with its principal place of business in Seattle, Washington.
8

9 2. Microsoft is a corporation organized under the laws of the State of
10 Washington, with its principal place of business in Redmond, Washington.

11 **JURISDICTION AND VENUE**

12 3. This complaint asserts a cause of action for patent infringement under the
13 Patent Act, 35 U.S.C. § 271. This Court has subject matter jurisdiction over this matter by
14 virtue of 28 U.S.C. § 1338(a). Venue is proper in this Court by virtue of 28 U.S.C. § 1391(b)
15 and (c) and 28 U.S.C. § 1400(b), in that Defendant Microsoft may be found in this district,
16 have committed acts of infringement in this district, and a substantial part of the events or
17 omissions giving rise to the claim occurred and a substantial part of property that is the
18 subject of the action is situated in this district.
19

20 4. This Court has personal jurisdiction over Defendant Microsoft because
21 Defendant has a place of business in, and provides infringing products and services in, the
22 Northern District of California.
23

24 **INTRADISTRICT ASSIGNMENT**

25 5. Pursuant to Civil LR 3-2(c), this case should be subject to district-wide
26 assignment because it is an Intellectual Property Action.
27
28

COUNT I

PATENT INFRINGEMENT

1
2
3 6. On January 14, 2003, United States Patent No. 6,507,349 ("the '349 patent")
4 entitled "Direct Manipulation of Displayed Content" was duly and legally issued. A true and
5 correct copy of the '349 patent is attached as Exhibit A.

6
7 7. Edward Balassanian is the sole inventor of the '349 patent. The '349 patent
8 has been assigned to Plaintiff. Plaintiff Implicit is the sole legal and rightful owner of the
9 '349 patent.

10 8. Microsoft makes, uses, and sells products that infringe the '349 patent, such
11 products including without limitation, its Windows 7 Operating System and the Zune HD
12 device. In addition, Microsoft has infringed and is still infringing the '349 patents in this
13 country, through, *inter alia*, its active inducement of others to make, use, and/or sell the
14 systems, products and methods claimed in one or more claims of the patents. In addition,
15 Microsoft has infringed and is still infringing these patents in this country through, *inter alia*,
16 providing and selling goods and services including products designed for use in practicing
17 one or more claims of the patents, where the goods and services constitute a material part of
18 the invention and are not staple articles of commerce, and which have no use other than
19 infringing one or more claims of the patents. Microsoft has committed these acts with
20 knowledge that the goods and services it provides are specially made for use in a manner that
21 directly infringes these patents.
22

23
24 9. As a result of the infringement by Microsoft, Plaintiff has been damaged, and
25 will continue to be damaged, until these defendants are enjoined from further acts of
26 infringement.
27
28

1 10. Microsoft will continue to infringe unless enjoined by this Court. Plaintiff
2 faces real, substantial and irreparable damage and injury of a continuing nature from
3 infringement for which Plaintiff has no adequate remedy at law.

4 WHEREFORE, Plaintiff prays for entry of judgment:

5 A. that the '349 patent is valid and enforceable;

6 B. that Microsoft has infringed one or more claims of the '349 patent;

7 C. that Microsoft account for and pay to Plaintiff all damages caused by the
8 infringement of the '349 patents, which by statute can be no less than a reasonable
9 royalty;

10 D. that Plaintiff be granted pre-judgment and post-judgment interest on the
11 damages caused to them by reason of Defendants' infringement of the '349 patent;

12 E. that this Court require Defendant to file with this Court, within thirty (30)
13 days after entry of final judgment, a written statement under oath setting forth in detail
14 the manner in which Defendant has complied with the injunction;

15 F. that this be adjudged an exceptional case and the Plaintiff be awarded its
16 attorney's fees in this action pursuant to 35 U.S.C. § 285;

17 G. that this Court award Plaintiff its costs and disbursements in this civil
18 action, including reasonable attorney's fees; and

19 H. that Plaintiff be granted such other and further relief as the Court may
20 deem just and proper under the current circumstances.
21
22
23
24
25
26
27
28

1 Dated: November 30, 2009

Respectfully submitted,

2
3
4 SPENCER HOSIE (CA Bar No. 101777)
shosie@hosielaw.com
5 BRUCE WECKER (CA Bar No. 078530)
bwecker@hosielaw.com
6 GEORGE F. BISHOP (CA Bar No. 89205)
gbishop@hosielaw.com
7 HOSIE RICE LLP
8 188 The Embarcadero, Suite 750
San Francisco, CA 94105
9 (415) 247-6000 Tel.
(415) 247-6001 Fax

10 *Attorneys for Plaintiff*
11 *IMPLICIT NETWORKS, INC.*
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DEMAND FOR JURY TRIAL

Plaintiff, by its undersigned attorneys, demands a trial by jury on all issues so triable.

Dated: November 30, 2009

Respectfully submitted,


SPENCER HOSIE (CA Bar No. 101777)
shosie@hosielaw.com
BRUCE WECKER (CA Bar No. 078530)
bwecker@hosielaw.com
GEORGE F. BISHOP (CA Bar No. 89205)
gbishop@hosielaw.com
HOSIE RICE LLP
188 The Embarcadero, Suite 750
San Francisco, CA 94105
(415) 247-6000 Tel.
(415) 247-6001 Fax

Attorneys for Plaintiff
IMPLICIT NETWORKS, INC.